

REMARKS

By this amendment, Applicants have amended claims 1 and 112 to include the features of claim 3 that the biodegradable polyurethane polymer is cross-linked and claim 8 that the polyurethane composite further comprises polycaprolactone. Claims 2, 113 and 115-118 have been amended to remove the alleged indefinite term "modified". Claims 3 and 8 have been canceled. These amendments do not add new matter. Applicants respectfully request entry of these amendments and allowance of the pending claims.

1. Response to Claim Objection

Claim 118 is objected to because the term phospholipid is misspelled. Applicants have removed the term from this claim. Therefore, this objection is now moot.

2. Response to Rejection Under 35 U.S.C. §112 Second Paragraph

Claims 2, 113 and 115-118 are rejected under 35 U.S.C. 112, second paragraph as allegedly being indefinite for using the term "modified". Applicants express no opinion as to the merits of the alleged indefinite rejection. However, in order to advance prosecution, Applicants have amended the claims to remove the term "modified" from the claims. Therefore, this rejection is now moot.

3. Response to Rejections under 35 U.S.C. § 102(a)

The Examiner rejected claims 1-5, 9, 10, 15-31, 112-113, and 115-118 under 35 U.S.C. § 102(a) as allegedly being anticipated by "Tissue Engineering" (Zhang). The Examiner also rejected claims 1 and 7 under 35 U.S.C. 102(a) as allegedly being anticipated by "Journal of Biomedical Materials Research Part A, Oct. 17, 2003 (Gorna). Applicants express no opinion as to the merits of these rejections. However, in order to advance prosecution, Applicants have amended the claims to include the feature of claim 8 that the polyurethane composite further comprises polycaprolactone. The Examiner concedes that claim 8 is not anticipated by Zhang and Gorna, as claim 8 is not part of these rejections. Therefore, these rejections are now moot.

4. Response to Rejection under 35 U.S.C. § 102(e)

Claims 1, 2, 4, 5, 9-31 and 112-118 are rejected under 35 U.S.C. 102(e) as allegedly anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 6,696,073 (Boyce). Applicants express no opinion as to the merits of these rejections. However, in order to advance prosecution, Applicants have amended the claims to include the features of claim 3 that the biodegradable polyurethane polymer is cross-linked and claim 8 that the polyurethane composite further comprises polycaprolactone. The Examiner concedes that claims 3 and 8 are not anticipated or made obvious by Boyce, as claims 3 and 8 are not part of this rejection. Therefore, this rejection is now moot.

5. Response to Rejection under 35 U.S.C. § 103(a)

Claims 1, 8 and 11-14 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Gorna. Applicants express no opinion as to the merits of this rejection. However, in order to advance prosecution, Applicants have amended the claims to include the feature of claim 3 that the biodegradable polyurethane polymer is cross-linked. The Examiner concedes that claim 3 is not made obvious by Gorna, as claim 3 is not part of this rejection. Therefore, this rejection is now moot.

6. Response to Obviousness Double Patenting Rejection

Claims 1, 2, 4, 5, 8-31 and 112-118 are rejected on the grounds of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-23 of U.S. Patent No. 6,696,073 (Boyce). Applicants express no opinion as to the merits of this rejection. However, in order to advance prosecution, Applicants have amended the claims to include the feature of claim 3 that the biodegradable polyurethane polymer is cross-linked. The Examiner concedes that claim 3 is not made obvious by Boyce, as claim 3 is not part of this rejection. Therefore, this rejection is now moot.

7. Response to Provisional Obviousness Double Patenting Rejection

Claims 1-5, 7-31 and 112-118 are provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 86-102 of copending Application No. 11/336,127. Applicants respectfully request the Examiner to reconsider this rejection in light of the amendments to the claims and also

Applicants: Knaack *et al.*
Serial No.: 10/771,736
Filed: February 4, 2004
Amendment and Reply to Non-Final Office Action
Page 9

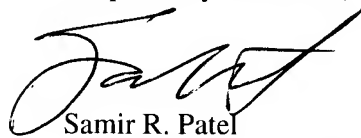
remind the Examiner that this rejection is a provisional obviousness type double patenting rejection. Applicants choose to wait until allowable subject matter is indicated and, if needed, will file a terminal disclaimer at that time.

8. Conclusion

No fee is believed to be due with respect to the filing of this amendment. If any additional fees are due, or an overpayment has been made, please charge, or credit Deposit Account No. 132546 for such sum.

If the Examiner determines that any further action is necessary to place this application into better form, the Examiner is cordially invited to contact Applicants' attorney at the telephone number provided.

Respectfully submitted,



Samir R. Patel
Registration No.: 44,998
Attorney for Applicants

Date: 2/14/2011
Medtronic, Inc.
2600 Sofamor Danek Drive
Memphis, TN 38132
Telephone No.: (901) 399-2652